

DIST.	OFF.	DOCKET YR. NUMBER	FILING DATE MO DAY YEAR	J	N/S	O	D	R	\$ DEMAND	JUDGE/ MAG. NO.	COUNTY	JURY DEM.	DOCKET YR. NUMBER
425	3	84 3526	11 07 84	3	360	1			Nearest \$1,000 7000	J 2509 M 25AB	54059	P	84 3526

PLAINTIFFS

HOWARD, LORETTA, Administratrix of
the Estate of Lorenzo C. Howard, Deceased

DEFENDANTS

MILAM, JIM R. (aka, MILAM, JIMMY,
MILAM, JIMMIE R.); WOLFORD, CARTER LEE;
ROBINETTE, LARRY; PACIFIC, ADERY,
employees, agents, and servants, and
TALL TIMBER COAL COMPANY; RAWL SALES
AND PROCESSING CO.; A. T. MASSEY COAL
COMPANY, INC.; ST. JOE'S MINERALS CORPOR-
ATION; FLUOR CORPORATION; SCALLOP CORPOR-
ATION; BUREAU OF MINE SAFETY AND HEALTH
ADMINISTRATION (UNITED STATES DEPARTMENT
OF LABOR) jointly and severally

**NATIONAL LABOR RELATIONS BOARD added
as Intervenor by order of 12-11-85

CAUSE

(CITE THE U.S. CIVIL STATUTE UNDER WHICH THE CASE
IS FILED AND WRITE A BRIEF STATEMENT OF CAUSE)

DCM

28 USC 1331. Kentucky Worker's Compensation Law, KRS Chapter 342; KRS Section 411.130; KRS
413.140; 28 USC 1346 (Federal Tort Claims Act); 5 USC 551 (The Administrative Procedure Act)
Wrongful Death Action.

PLAINTIFF

Richard Engram, Jr.
P. O. Box 506
Welch, WV 24801
Tel: 436-3778

ATTORNEYS

RAWL SALES & PROCESSING CO.

Norman K. Fenstermaker
JENKINS, FENSTERMAKER, KRIEGER, KAYES
& FARRELL

P.O. Box 2688
Huntington, WV. 25726
Tel. 523-2100

ALSO: DEFTS., CURTIS LEE WOLFORD;
ADERY PACIFIC; LARRY ROBINETTE;
A. T. MASSEY COAL COMPANY, INC.; FLUOR
CORPORATION; ST. JOE MINERAL CORPORATION;
JIM R. MILAM; TALL TIMBER COAL COMPANY;
SCALLOP CORPORATION

NATIONAL LABOR RELATIONS BOARD UNITED STATES OF DEPARTMENT OF LABOR

~~David A. Faber, United States Attorney~~

Gary E. Pullin, Assistant United States
Attorney

Southern District of West Virginia
Post Office Box 1239
Huntington, West Virginia 25714
Tel: 529-5799

MICHAEL W. CAREY, UNITED STATES ATTORNEY

LORETTA HOWARD
Box 5

Lobata, WV 25677

DEFTS., A. T. MASSEY COAL COMPANY, INC.;
FLUOR CORPORATION; ST. JOE MINERAL
CORPORATION; SCALLOP CORPORATION

Howard M. Persinger, Jr.
Howard M. Persinger, Jr., L.C.
130 East Second Avenue
Post Office Box 1258
Williamson, West Virginia 25661

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
	11-07-84	\$60.00 9567	#980696(7)11-09-84	JS-5	11-30-84
	05-01-87	\$105.00 (Notice of Appeal) #29000	- Charleston Receipt		
	11-25-88	\$105.00 (Notice of Appeal) #03381	1 C.D.#321516(8)11-25-88		

DATE	NR.	PROCEEDINGS	
		84-3526	
		BEGIN VOLUME I, RECORD ON APPEAL, CIRCUIT COURT NO. 87-1634 & NO. 88-2966	
11-07-84	1	COMPLAINT. Original and 21 copies of Summons, issued. Ret. 30 and 60 days. Personal Service and through Secy. of St. Summons and Complaint returned to counsel for service.	DCM
11-21-84	2	RETURN of Service on Summons & Complaint. (Served on Secy. of St. as to Deft, Rawl Sales & Processing Co. on 11-16-84)	DCM
11-29-84	3	RETURN OF SERVICE on summons & complaint; cert. mail signed for by V.M. Gibson o/b/o U.S. Atty. on 11-14-84; cert. mail signed for o/b/o Atty. General's Off. on 11-13-84; cert. mail sent to U.S. Dept. of Labor unsigned & not dated.	
11-29-84	4	RETURN OF SERVICE on summons & complaint; cert. mail signed for o/b/o Don Blankenship, Pres. Rawl Sales & Processing Co. on 11-13-84.	MB
12-04-84	5	ACKNOWLEDGMENT of Receipt of Summons & Complaint. Served on Gary E. Pullin, 11-14-84.	LLC
12-06-84	6	RETURN OF SERVICE on summons & complaint; accepted by Secy. of State o/b/o Tall Timber Coal Co. on 11-16-84; cert. mail signed for by Curt Moore o/b/o Tall Timber on 11-20-84.	MB
12-06-84	7	RETURN OF SERVICE on summons & complaint; accepted by Secy. of State o/b/o Fluor Corp. on 11-16-84; cert. mail, ret. receipt card signed for o/b/o Fluor Corp. 11-23-84.	MB
12-06-84	8	RETURN OF SERVICE on summons complaint; accepted by Secy. of State o/b/o Scallop Coal Corp. on 11-16-84; cert. mail, ret. receipt card signed for by Tony Sceefo on 11-21-84.	MB
12-06-84	9	RETURN OF SERVICE on summons & complaint; accepted by Secy. of State o/b/o St. Joe Minerals Corp. on 11-16-84; cert. mail, ret. receipt card signed for o/b/o St. Joe Minerals on 11-21-84.	MB
12-06-84	10	RETURN OF SERVICE on summons & complaint; accepted by Secy. of State o/b/o A.T. Massey Coal Co., Inc. on 11-16-84; cert. mail, ret. receipt card returned unexecuted.	MB
12-12-84	11	NOTICE & MOTION of deft, Carter Lee Wolford, to Dismiss, or in the Alternative, to Quash Service of Process.	MB
12-12-84	12	NOTICE & MOTION of deft, Avery Pacific, to Dismiss or in the Alternative, to Quash Service of Process.	MB
12-12-84	13	NOTICE & MOTION of deft, Larry Robinette, to Dismiss or in the Alternative, to Quash Service of Process.	MB
12-12-84	14	NOTICE & MOTION of deft, A.T. Massey Coal Co., to Dismiss or in the Alternative, to Quash Service of Process, with AFFIDAVIT of PAUL S. BARBERY.	MB
12-12-84	15	NOTICE & MOTION of deft, Fluor Corp., to Dismiss or in the Alternative, to Quash Service of Process, with AFFIDAVIT of JOHN A. WRIGHT.	MB

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CIVIL DOCKET CONTINUATION SHEET

FPI-MAR-7-14-80-70M-4398

PLAINTIFF		DEFENDANT	DOCKET NO. ¹ 84-3526
LORETTA HOWARD		JIM R. MILAM, ET AL	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
12-12-84	16	NOTICE & MOTION of deft, St. Joe Mineral Corp., to Dismiss, or in the Alternative, to Quash Service of Process, w/AFFIDAVIT of DWIGHT A. MILLER. MB	
12-12-84	17	NOTICE & MOTION of deft, Jim R. Milam, to Dismiss, or in the Alternative, to Quash Service of Process. MB	
12-14-84	18	MOTION of deft, Tall Timber Coal Co., to Dismiss, or in the Alternative, Quash the Service of Process, with AFFIDAVIT of ADERY PACIFIC. MB	
12-17-84	19	NOTICE & MOTION of deft., Scallop Corp. to Dismiss, or in the Alternative, to Quash Service of Process, with affidavits of P. Van Haaps & Michael E. Lorenzo attached. MB	
12-18-84	20	ANSWER of deft, Rawl Sales & Processing Co. MB	
12-26-84	--	MEMORANDUM OF LAW of Pltf in Opposition to Defts' Motions to Dismiss. DCM (OMITTED FROM THE RECORD ON APPEAL)	
01-09-85	21	ORDER (2509): All parties to Motion to Dismiss are required to file briefs or memoranda in support of or in opposition accompanied by affidavits, if necessary within 15 days from date of this order; material in opposition to be filed 15 days after materials in support of motion. (CC: COUNSEL) MB	
01-15-85	22	MOTION of deft, US Dept. of Labor, to Dismiss. MB	
01-15-85	--	MEMORANDUM OF POINTS & AUTHORITIES of deft, US Dept. of Labor, in Support of Motion to Dismiss. (OMITTED FROM THE RECORD ON APPEAL) MB	
01-18-85	23	SPECIFIC INTERROGATORIES of pltf. to defts. to More Fully Develop The Issues of Jurisdiction, Process, Service of Process & Interrelationships With Each Other. (defts, Jim R. Milam, Curtis L. Wolford Larry Robinette & Adery Pacific) MB	
01-18-85	24	SPECIFIC INTERROGATORIES of pltf. to defts. to More Fully Develop the Issues of Jurisdiction, Process, Service of Process, & Interrelationships with Each Other (defts, Rawl Sales & Processing, A.T. Massey Coal Co., St. Joe Minerals, Fluor Corp., Scallop Corp & Tall Timber Co.) MB	
01-18-85	--	MEMORANDUM OF LAW of pltf. in Support of Specific Interrogatories to More Fully Develop Issues of Jurisdiction, Process, Service of Process. MB (OMITTED FROM THE RECORD ON APPEAL)	
01-25-85	--	BRIEF of defts, Milam, Wolford, Robinette & Pacific in Support of Motions of said defts. to Dismiss or in the Alternative, to Quash Service of Process. (OMITTED FROM THE RECORD ON APPEAL) (SUPPLEMENTED ROA ON 04-28-89) MB	
01-25-85	--	BRIEF of defts, Tall Timber Coal, Rawl Sales & Processing Co., A.T. Massey Coal Co., St. Joe's Minerals Corp., Fluor Corp., Scallop Corp. & Scallop Coal Corp., in Support of Motions to Dismiss or in the Alternative, to Quash. Service of process. (OMITTED FROM THE RECORD ON APPEAL) MB	

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PLAINTIFF		DEFENDANT	DOCKET NO. 84-3526
HOWARD, LORETTA		MILAM, JIM R., et al	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
01-28-85	25	ORDER (2509): Material filed in opposition shall be filed w/in 15 days from date of this notice. (cc: counsel) LLC	
02-11-85	*	SUPPLEMENTAL MEMORANDUM OF LAW of Pltf. In Opposition To Motions To Dismiss Of Defts., Milam, Wolford, Robinette, And Pacific. <u>(OMITTED FROM RECORD)</u> SKM	
02-11-85	*	SUPPLEMENTAL MEMORANDUM OF LAW of Pltf. In Opposition To Deft. Corporations' Motions to Dismiss. <u>(OMITTED FROM RECORD ON APPEAL)</u> SKM	
02-14-85	*	MEMORANDUM OF LAW of Pltf. In Opposition to Deft.'s, United States Department Of Labor, Motion to Dismiss. <u>(OMITTED FROM RECORD ON APPEAL)</u> SKM	
02-15-85	*	BRIEF of Defts., Jim R. Milam, Carter Lee Wolford, Larry Robinette, Adery Pacific, Tall Timber Coal Company, Rawl Sales And Processing Co., A. T. Massey Coal Company, Inc., St. Joe's Minerals Corporation, Fluor Corporation, Scallop Coal Corporation and Scallop Corporation In Support Of Motion To Dismiss For Lack Of Jurisdiction Over The Subject Matter. <u>(OMITTED FROM RECORD ON APPEAL)</u> SKM	
02-15-85	26	MOTION of Defts., Jim R. Milam, Carter Lee Wolford, Larry Robinette, Adery Pacific, Tall Timber Coal Company, Rawl Sales And Processing Co., A. T. Massey Coal Company, Inc., St. Joe's Minerals Corporation, Fluor Corporation, Scallop Coal Corporation and Scallop Corporation to Dismiss. SKM	
02-15-85	27	OBJECTION of Defts., Jim R. Milam, Carter Lee Wolford, Larry Robinette, Adery Pacific, Tall Timber Coal Company, Rawl Sales And Processing Co., A. T. Massey Coal Company, Inc., St. Joe's Minerals Corporation, Fluor Corporation, Scallop Coal Corporation And Scallop Corporation, To Interrogatories Directed To Them By The Pltf. SKM	
02-22-85	28	REQUEST OR MOTION of Pltf. To Compel Answers To Specific Jurisdictional Interrogatories to Defts. MEMORANDUM OF LAW of Pltf. In Support of Motion To Compel. SKM	
02-22-85	*	MEMORANDUM OF LAW of Pltf. In Opposition To Defts.' Joint Motion To Dismiss Alleging Lack of Complete Diversity. <u>(OMITTED FROM RECORD ON APPEAL)</u> SKM	
02-27-85	--	REPLY BRIEF of defts. in Support of their motion to dismiss on the grounds of no subject matter jurisdiction. <u>(OMITTED FROM RECORD ON APPEAL)</u> MB	
03-08-85	*	REPLY MEMORANDUM OF LAW of Pltf. To Defts.' Reply Brief on Grounds of No Subject Matter Jurisdiction. <u>(OMITTED FROM RECORD ON APPEAL)</u> SKM	
03-13-85	29	EXHIBIT of Pltf. in opposition to Defts.' Motion to Dismiss. SKM	
03-26-85	30	OBJECTIONS of Defts., Jim R. Milam, Carter Lee Wolford, Larry Robinette, Adery Pacific, Tall Timber Coal Company, Rawl Sales and Processing Co., A.T. Massey Coal Company, Inc., St. Joe's Minerals Corporation, Flour Corporation, Scallop Coal Corporation and Scallop Corporation to Interrogatories of Pltf. SKM	

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>84-3526!</u>
HOWARD, Loretta		MILAM, JIM R., et al	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
04-02-85	31	EXHIBIT of Pltf. in Opposition to Defts.' Motions to Dismiss.	TDS
04-02-85	32	AFFIDAVIT of Jim R. Milam.	TDS
04-02-85	33	AFFIDAVIT of Carter Welford.	TDS
04-02-85	34	AFFIDAVIT of Larry Robinette.	TDS
04-02-85	35	AFFIDAVIT of Adery Pacific.	TDS
04-02-85	36	SUPPLEMENTAL AFFIDAVIT of Adery Pacific as President of Tall Timber Coal Company.	TDS
04-04-85	37	MOTION of Defts., Jim R. Milam, Carter Lee Welford, Larry Robinette, Adery Pacific, Tall Timber Coal Company, Rawl Sales And Processing Co., A. T. Massey Coal Company, Inc., St. Joe's Minerals Corporation, Flour Corporation, Scallop Coal Corporation and Scallop Corporation to Dismiss for lack of jurisdiction over the subject matter for lack of Federal Question as to These Defts.	SKM
04-08-85	38	MATERIAL of deft. in Support of Motion to Dismiss.	LLC
04-08-85	39	LETTER FORM SUBMISSION AND EXHIBITS of pltf. in Support of Pltf's Motion to Compel Answer to Interrogatories and pltf's Memorandum of Law in Opposition to deft's Motion to Dismiss.	LLC
04-15-85	40	ORDER (25AB): Pursuant to pltf's Motion to Compel Answers to Specific Interrogatories, it is ORDERED that discovery be stayed pending a determination on the issue of this Court's jurisdiction. If defts' motions, insofar as they raise the issue of subject-matter jurisdiction, are denied, they shall, within 30 days of the date of entry of the order or orders denying such motions, respond to pltf's discovery requests. (cc:Counsel)MB	
05-01-85	41	MOTION of Pltf. for Leave to Amend Complaint In Conformity to Diversity of Citizenship Prerequisites. (With exhibits attached.) MEMORANDUM OF LAW AND AUTHORITY of Pltf. attached.	SKM
06-14-85	42	MOTION of deft, Nat'l Labor Relations Board, to Intervene.	MB
06-14-85	43	MOTION of deft, Nat'l Labor Relations Board, to Strike & Recall Documents.	MB
06-14-85	--	MEMORANDUM of deft, Nat'l Labor Relations Board, in Support of Motion to Strike & Recall Documents. <u>(OMITTED FROM RECORD ON APPEAL)</u>	MB
06-14-85	44	INTERROGATORIES of deft, Nat'l Labor Relations Board, in Aid of Motion to Strike & Recall Documents.	MB

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PLAINTIFF		DEFENDANT	DOCKET NO. 84-3526
HOWARD, LORETTA		MILAM, JIM R., et al	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
06-25-85	45	ORDER (2509) Pursuant to def't, National Labor Relations Board's Motion to Intervene, all parties to motions are required to file briefs or memoranda in support of or in opposition to it; material in support has been filed; material in opposition shall be filed within 15 days from date of this order. (cc: Counsel) MB	
06-26-85	46	MOTION of Pltf. to Compel Joinder of the National Labor Relations Board as an Amicus Curiae, Involuntary Party-Plaintiff, or Party-Defendant needed for Just Adjudication. MEMORANDUM of Pltf., OF LAW & AUTHORITIES. SKM	
06-26-85	47	MOTION of Pltf. for a more Definite Statement. MEMORANDUM of Pltf. of Law & Authorities. SKM	
06-26-85	48	MOTION of Pltf. for a Protective Order & Stay of Discovery Pending Ruling of Court. MEMORANDUM of Pltf. of Law & Authorities. SKM	
06-28-85	49	RESPONSE of NLRB to pltf's Motion for a More Definite Statement. LLC	
06-28-85	50	MOTION of NLRB to Compel Answers to Interrogatories. LLC	
07-02-85	51	END VOLUME I, RECORD ON APPEAL; BEGIN VOLUME II, RECORD ON APPEAL, NO. 87-1634 & ORDER (25AB): motion of pltf for more definite statement denied; pltf's motion for stay of discovery granted (cc: counsel) DCM	
07-17-85	*	PROPOSED AMENDED COMPLAINT submitted by Pltf. (Attached to Motion of Pltf. for Leave to File Amended Complaint dated 05-01-85; Document No. 41) SKM	
08-02-85	52	MOTION of def't. to Dismiss Pltf's Amended Complaint. LLC	
08-02-85	53	RESPONSE of NLRB to Motion to Compel Joinder as an Amicus Curiae, Involuntary Party-Plaintiff, or Party-Defendant Needed for Just Adjudication. LLC	
08-29-85	54	REPLY of Pltf. to Response of NLRB to Pltf.'s Motion to Compel Joinder, etc. SKM	
08-29-85	55	INTERROGATORIES of Pltf. to the National Labor Relations Board. SKM	
09-03-85	56	OBJECTION of def't, National Labor Relations Board, to Interrogatories of Pltf. MB	
09-10-85	57	NOTICE of Def't. National Labor Relations Board, of hearing on Motion to Intervene on 09-20-85. (Copy of Motion attached.) SKM	
09-10-85	58	REPLY of Pltf. to LNRB's Objection to Pltf.'s Interrogatories. SKM	
09-17-85	59	NOTICE of Continuation of Hearing on def't, National Labor Relations Board's Motion to Intervene; hearing continued until 10-17-85, at 1:00 P.M. MB	
10-17-85	--	HEARING ON MOTION TO INTERVENE. (Staker/Knott/Hamilton) LLC	

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LORETTA HOWARD		JIM R. MILAM, ET AL	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
10-28-85	60	NOTICE & MOTION of Pltf. to Use Videotape - Deposition of E. Morgan Massey, President, A. T. Massey Coal Company, Inc., at trial and other future proceedings - Exceptional Circumstances. SKM	
10-28-85	*	MEMORANDUM of Pltf. of Law IN SUPPORT of Motion to Use Videotape-Deposition. SKM (OMITTED FROM THE RECORD ON APPEAL)	
12-11-85	61	ORDER (2509): Motion of the National Labor Relations Board to intervene granted; neither the pltf nor any other party nor counsel for any other party are not to make any further disclosure of the memorandum from the National Labor Relations Board dated 04-23-85; Protective stay granted to the pltf staying discovery until the Court ruled upon the motion to intervene, is lifted and pltf shall respond to the interrogatories served upon pltf by NLRB within 45 days; likewise, the NLRB shall file answers to pltf's interrogatories within the same period of time; Court reserves ruling on pltf's motion to compel joinder of NLRB as a party or Amicus Curiae and grants to the pltf an additional 45 days from this date within which to file any further briefs or memorandums in support of her motion (cc: counsel) DCM	
01-27-86	62	CERTIFICATE OF SERVICE on Deft., National Labor Relations Board's, Response to Pltf.'s Interrogatories. SKM	
02-27-86	63	NOTICE & MOTION of Deft. National Labor Relations Board, to Compel Answers to Interrogatories. SKM	
02-27-86	*	MEMORANDUM of Deft., National Labor Relations Board, IN SUPPORT of Motion to Compel Answers. (OMITTED FROM THE RECORD ON APPEAL) SKM	
05-23-86	64	MEMORANDUM ORDER (25AB): Motion of National Labor Relations Board for order directing pltf to answer interrogatories granted and pltf to answer interrogatories within 10 days. (cc: counsel) DCM	
06-02-86	65	NOTICE & MOTION of Pltf. for Clarification, Amendment, Alteration or Additional Findings of Fact and Exception to Magistrate's Ruling with Affidavit of Pltf. In support attached. SKM	
06-02-86	*	BRIEF of Pltf. IN SUPPORT of Motion for Clarification, Amendment, Alteration or Additional Findings of fact and exception to Magistrate's ruling. SKM (OMITTED FROM THE RECORD ON APPEAL)	
06-11-86	66	ORDER (25AB): Pltf's motion for "clarification" or "amendment" of Memorandum Order of 05-23-86 denied; pltf to forthwith answer interrogatories of the NLRB (cc: counsel) DCM	
06-17-86	67	NOTICE OF APPEAL from Ruling of Magistrate to a District Judge. SKM	
06-17-86	68	NOTICE & MOTION of Pltf. to dismiss National Labor Relations Board's Motion to Intervene and Strike and recall documents. SKM	
06-17-86	*	BRIEF of Pltf. IN SUPPORT of Motion to Dismiss. (OMITTED FROM THE RECORD ON APPEAL) SKM	

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>84-3526</u>
HOWARD, LORETTA		MILAM, JIM R., ET AL	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
06-25-86	69	NOTICE & MOTION of National Labor Relations Board to strike notice of appeal and to compel Pltf.'s counsel to comply with previous orders of the Court.	SKM
06-30-86	70	ORDER (2509): Hearing on Motn. of Nat'l Labor Relations Board to dismiss CONTINUED until 07-07-86, at 2:30 P.M., due to conflict in previous schedule. (cc: Counsel)	MB
07-07-86	--	HEARING ON APPEAL FROM MAGISTRATE'S ORDER. (Staker/Richardson)	LLC
07-07-86	71	AMENDED NOTICE OF APPEAL from Ruling of Magistrate to a District Judge.	LLC
07-07-86	72	REQUEST of Pltf. to Treat Motion to Dismiss as a Renewed Motion to Dismiss.	LLC
07-07-86	73	STATEMENT of Pltf. in Support of Notice of Appeal.	LLC
07-14-86	74	ANSWERS of Pltf. to Interrogatories of National Labor Relations Board.	SKM
07-21-86	75	ORDER (2509): Pltf's Motion to Amend, GRANTED; pltf. shall cause service to be made upon deft; deft. shall answer or respond w/in 10 days. (cc:Counsel)	MB
07-23-86	76	ORDER (2509): This matter is before this Court on motion of Pltf. for an appeal from the orders of the Magistrate entered herein on 05-23-86 & 06-11-86 compelling Pltf.'s counsel to answer the interrogatories of the NLRB, and the motion of NLRB to dismiss the Pltf.'s appeal & order Pltf.'s counsel to answer interrogatories; AFFIRMING the aforesaid orders of the Magistrate; pltf.'s counsel shall factually answer the interrogatories of the NLRB & file a copy in this court by 07-14-86. (cc: counsel)	TLD
07-23-86	77	ORDER (2509): Orders of the Magistrate entered on 05-23-86 & 06-11-86 are affirmed; motion of NLRB to compel Pltf.'s counsel to answer the interrogatories of the NLRB is granted; Pltf.'s counsel shall factually answer the interrogatories of the NLRB & file a copy of the said answers with this Court by 07-14-86. (cc: counsel)	TLD
07-28-86	78	MOTION of National Labor Relations Board for Rule to Show Cause why Pltf.'s Counsel should not be held in contempt. Affidavit of Gary E. Pullin IN SUPPORT attached.	SKM
07-30-86	79	CERTIFICATE OF SERVICE on Pltf.'s Amended Complaint.	SKM
07-30-86	80	ORDER (2509): Richard Engram to appear before the Court on 08-07-86 at 9:30 A.M. to show cause why you should not be adjudged guilty of contempt of court for failure to supply factual answers to interrogatories of NLRB by 07-14-86 as directed by the Court following a hearing on 07-07-86; US Marshal shall serve motion, affidavit and this order upon pltf's counsel, Richard Engram (cc: counsel, US Marshal)	DCM

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>84-3526 !</u>
HOWARD, LORETTA, Administratrix		MILAM, JIM R., ET AL	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
08-04-86	81	CORRECTED AFFIDAVIT of Gary E. Pullin IN SUPPORT of Motion of United States for a Rule to Show Cause. SKM	
08-06-86	82	AMENDED COMPLAINT, filed. SKM	
08-06-86	83	RETURN OF SERVICE on Motion & Order; served on Olivia Powell, Secy., for Richard Engram, Esquire by USM on 08-04-86. SKM	
08-07-86	*	HEARING ON MOTION FOR RULE TO SHOW CAUSE (WHY MR. ENGRAM SHOULD NOT BE HELD IN CONTEMPT). (STAKER, RICHARDSON, CHASE) SKM	
08-14-86	84	MOTION of Deft., A. T. Massey Coal Company, Inc., to Dismiss Amended Complaint with Notice & Affidavits of Paul S. Barbary attached. SKM	
08-14-86	85	NOTICE & MOTION of Deft., Fluor Corporation, to Dismiss Amended Complaint with Affidavit of John A. Wright attached. SKM	
08-14-86	86	NOTICE & MOTION of Deft., St. Joe Mineral Corporation, to Dismiss Amended Complaint with Affidavit of Dwight A. Miller attached. SKM	
08-14-86	87	NOTICE & MOTION of Deft., Tall Timber Coal Company, to Dismiss Amended complaint with Affidavit of Adery Pacific attached. SKM	
08-14-86	88	NOTICE & MOTION of Deft., Scallop Coal Corporation, to Dismiss Amended Complaint with Affidavit of P. Van Haaps attached. SKM	
08-14-86	89	NOTICE & MOTION of Pltf. for recusal and stay of proceedings. SKM	
08-14-86	*	MEMORANDUM of Points and Authorities IN SUPPORT of the Motion for recusal & stay of proceedings. <u>(OMITTED FROM THE RECORD ON APPEAL)</u> SKM	
08-14-86	90	CERTIFICATE OF SERVICE on Pltf.'s Motion for Recusal and Brief in Support. SKM	
08-19-86	91	MOTION of Deft., Bureau of Mine, Safety and Health Administration of the United States Dept. of Labor, to Dismiss Amended Complaint. SKM	
08-19-86	*	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT of Deft.'s Motion to Dismiss. <u>(OMITTED FROM THE RECORD ON APPEAL)</u> SKM	
08-19-86	*	SUPPLEMENTAL MEMORANDUM of Deft., NLRB's IN SUPPORT of Motion to Intervene. <u>(OMITTED FROM THE RECORD ON APPEAL)</u> SKM	
09-05-86	92	NOTICE of Defts., other than the United States Department of Labor, to present order for entry on 09-22-86. SKM	
09-18-86	93	ORDER (2509): Pursuant to defts' motion for Order dismissing various defts., the hearing scheduled for 09-22-86 is continued until 10-10-86, at 10:30 A.M. (cc: Counsel) MP	

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. 84-3526
LORETTE HOWARD, ADM., ETC.		JIM R. MILAM, ET AL	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
10-09-86	94	ORDER (2509): Hearing regarding various motions made by parties continued from 10-10-86 to 10-27-86 at 1:30 P.M. (cc: counsel)	DCM
10-15-86	95	WITHDRAWAL of Pltf. of Stipulation and Agreement.	LLC
10-27-86	--	HEARING ON MOTION TO RECUSE. (STAKER/RICHARDSON)	LLC
10-31-86	96	ORDER (2509): Motion of pltf for recusal and stay of proceedings denied; Hearing on all pending motions set for 11-07-86 at 1:30 P.M. (cc: counsel)	DCM
11-10-86	97	ORDER (2509): Hearing on all motions continued until 12-01-86 at 2:30 P.M. (cc: counsel)	DCM
11-28-86	98	NOTICE & REQUEST of Pltf. for transfer of case with exhibits attached.	SKM
12-01-86	--	HEARING ON MOTION. (STAKER/RICHARDSON/CHASE)	LLC
12-05-86	99	ORDER (2509): Upon request of pltf.'s counsel to confer with his client, this matter is CONTINUED until 12-15-86, at 2:30 P.M., at which time the Court will hold an evidentiary hearing re: pltf's motion for transfer of this case & other pending motions; it is further ORDERED that the parties file any add'l motns. no later than 12-10-86. (cc: Counsel)	MP
12-15-86	--	HEARING ON MOTION. (STAKER/RICHARDSON)	LLC
12-15-86	--	HEARING ON MOTION EXHIBITS: Plaintiff's 1 through 9, inclusive. (VOLUME X, 4CCA #88-2966)	LLC VIII, ROA) #87-1634)
12-19-86	*	MEMORANDUM of Pltf. OF POINTS & AUTHORITIES IN SUPPORT of Request for transfer of case. (OMITTED FROM THE RECORD ON APPEAL)	SKM
03-31-87	100	MEMORANDUM OPINION (2509): Setting forth the reasons that Pltf.'s Request filed on 11-28-86 that Judge Staker transfer this action to Chief Judge Haden for retransfer to another district judge is OVERRULED & DENIED.. (cc: counsel)	TLD
03-31-87	101	ORDER (2509): Pltf.'s Request for Transfer of this Case is overruled & denied for the reasons set forth in a Memorandum Opinion entered contemporaneously w/this Order. (cc: counsel)	TLD
04-20-87	102	ORDER (2509): Pltf. Counsel's request for a two week extension within which to respond to this court's ruling denying his motion for transfer of the case is hereby GRANTED; and counsel shall have until 05-01-87 to pursue further action upon that motion. (cc: Counsel)	SKM
05-01-87	103	NOTICE OF APPEAL of Pltf. of Order entered 03-31-87 to USCA, Fourth Circuit, STAY PENDING APPEAL, & DESIGNATION OF RECORD FOR APPEAL. (cc: counsel; Court Reporter; Judge Staker; USCA, Fourth Circuit)	TLD
05-12-87	104	DOCKETING STATEMENT & TRANSCRIPT ORDER FORM of Pltf. <u>END VOLUME II, CIRCUIT COURT NO. 87-1634 & CIRCUIT COURT NO. 88-2966</u>	TLD

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>84-3526</u>
LORETTA HOWARD, ET AL		JIM R. MILAM, ET AL	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
06-25-87	105	TRANSCRIPT of Hearing before Robert J. Staker, 07-07-86. <u>4CCA #87-1634 (VOLUME IV, ROA, 4CCA #88-2966)</u>	LLC
06-25-87	106	TRANSCRIPT of Hearing before Robert J. Staker, 08-07-86. <u>4CCA #87-1634 (VOLUME V, ROA, 4CCA #88-2966)</u>	LLC
06-25-87	107	TRANSCRIPT of Hearing before Robert J. Staker, 12-01-86. <u>4CCA #87-1634 (VOLUME VI, ROA, 4CCA #88-2966)</u>	LLC
06-25-87	108	TRANSCRIPT of hearing before Robert J. Staker, 12-15-86. <u>4CCA #87-1634 (VOLUME VII, ROA, 4CCA #88-2966)</u>	LLC
08-05-87	109	COPY OF TRANSCRIPT of Hearing held 07-25-87, before Judge Robert J. Staker, in Marrowbone Development Company v. International Union, UMW, et al., CA-81-3332. <u>(VOLUME VII, RECORD ON APPEAL, 4CCA #87-1634)</u> <u>(VOLUME VIII, RECORD ON APPEAL, 4CCA #88-2966)</u>	TLD
08-05-87	*	PREPARING, CERTIFYING & TRANSMITTING RECORD ON APPEAL VIA UNITED PARCEL SERVICE TO USCA, FOURTH CIRCUIT, RICHMOND, VIRGINIA. CIRCUIT COURT NO. 87-1634 VOLUME I: PLEADINGS, NOS. 1 - 50. VOLUME II: PLEADINGS, NOS. 51 - 104 VOLUME III: TRANSCRIPT, NO. 105 VOLUME IV: TRANSCRIPT, NO. 106 VOLUME V: TRANSCRIPT, NO. 107 VOLUME VI: TRANSCRIPT, NO. 108 VOLUME VII: TRANSCRIPT, NO. 109 VOLUME VIII: EXHIBITS	TLD
01-28-88	110	<u>BEGIN VOLUME III, CIRCUIT COURT NO. 88-2966</u> ORDER, USCA, FOURTH CIRCUIT, NO. 87-1634: The Motion to file a copy of the Petition for Mandamus in Support of the Petition for Rehearing is granted; the request for rehearing en banc is denied; Petition for Rehearing denied. (cc: counsel)	TLD
02-05-88	111	ORDER (2509): status conferenced scheduled 02-22-88, 2:30 p.m. (cc: counsel)	LLC
02-16-88	112	NOTICE of NLRB of status conference, 02-22-88, 2:30 a.m.	LLC
02-29-88	113	NOTICE (2509): Status Conf. continued until 03-14-88 at 11:00 A.M. (cc: counsel)	DCM
03-14-88	*	STATUS CONFERENCE. STAKER, JUDGE/MEINKE, REPORTER.	DCM
03-16-88	114	ORDER (2509): counsel shall have until 03-29-88 within which to file additional materials re. motions pending in this action; responses shall be due no later than 04-15-88; reply due no later than 04-22-88. (cc: counsel)	LLC
03-21-88	115	SUPPLEMENTAL STATEMENT of Pltf. of Motions/Issues Pending for Adjudication by Court in Accordance with Status Conference.	TLD
03-22-88	116	COURT REPORTER'S OFFICIAL TRANSCRIPT of the Hearing held before the Honorable Robert J. Staker, Judge, on March 14, 1988. <u>(MEINKE, REPORTER)</u> <u>(VOLUME IX, 4CCA #88-2966)</u>	TLD
03-29-88	117	NOTICE of Pltf. OF FREEDOM OF INFORMATION CLAIM & STAY of Pending Case.	TLD
03-29-88	118	MOTION of Pltf. for Leave to File Amended Complaint, with AMENDED COMPLAINT attached.	TLD

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PLAINTIFF		DEFENDANT	DOCKET NO. 84-3526
LORETTA HOWARD, Administratrix of the Estate of Lorenzo C. Howard, deceased		JIM R. MILAM, ETC., ET AL.	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
03-29-88	119	CERTIFICATE OF SERVICE of Pltf. re: Pltf.'s Notice of Freedom of Information Claim & Stay of Pending Case, and Motion for Amended Complaint. TLD	
03-30-88	120	AMENDED CERTIFICATE OF SERVICE of Pltf. re: Pltf.'s Notice of Freedom of Information Claim & Stay of Pending Case, and Motion for Amended Complaint. TLD	
03-30-88	121	SUPPLEMENTAL STATEMENT of Pltf. in Support of Claim: Subject Matter Jurisdiction. TLD	
04-07-88	122	RESPONSE of Defts. to Pltf's. Motion for Leave to file Amended Complaint. GAN	
04-18-88	123	RESPONSE of Intervenor, National Labor Relations Board to Pltf's. Supplemental Statement of Motions/Issues Pending for Adjudication by this Court in accordance with Status Conference. GAN	
04-22-88	124	RESPONSE of Pltf. to NLRB's Response to Pltf.'s Supplemental Statement of Motions/Issues Pending for Adjudication by the Court in Accordance with Status Conference. TRJ	
07-08-88	125	MEMORANDUM OPINION AND ORDER (2509): (1) The motion to amend the Amended Complaint [with correction] is GRANTED; (2) The motion of Pltf. to stay these proceedings is DENIED; (3) The motions of the Defts. to dismiss this action for lack of subject matter jurisdiction is GRANTED without leave to amend; (4) The contempt issue is not moot; (5) This court's order granting the NLRB leave to intervene in this action is AFFIRMED; (6) Pltf.'s Attorney, Mr. Richard Engram, Jr., is ADJUDGED to be in contempt of this court's orders directing him to factually answer interrogatories; and (7) The NLRB is entitled to reasonable expenses incurred as a result of Mr. Engram's refusal to obey this court's orders. (cc: counsel; Clerk's Office, Parkersburg) TRJ	
07-18-88	126	MOTION of Pltf. to Alter or Amend Judgment. TRJ	
07-27-88	127	ORDER (2509): Pltf's. motion to alter or amend judgment is NOT RIPE and can not be considered at this time. (CC: Counsel) GAN	
07-28-88	128	MOTION of Intervenor for Extension of Time in Which to File Affidavit. TRJ	
07-29-88	129	ORDER (2509): Upon motion of NLRB for extension of time to file affidavit setting forth the reasonable expenses it incurred as a result of pltf's counsel's refusal to obey this court's orders compelling him to answer certain NLRB interrogatories and for good cause shown, counsel for NLRB shall have until 08-08-88 to file such affidavits and any supporting materials in that regard; counsel for pltf shall have until 08-18-88 to file any objections thereto. (cc: counsel) DCM	
08-08-88	130	REPORT of the National Labor Relations Board as to Reasonable Expenses Incurred as a Result of Richard Engram's Refusal to Comply with Discovery Orders, with Attachments. TRJ	
08-18-88	131	OBJECTION/EXCEPTION of Pltf.'s Counsel to Contempt Ruling of Court & Report of Expenses of the National Labor Relations Board. TRJ	

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>84-3526</u>
HOWARD, LORETTA ETC.		MILAM, JIM R., ET AL	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
08-26-88	132	AMENDED CERTIFICATE OF SERVICE of Pltf.'s Counsel Objection/Exception to Contempt Ruling, etc.	TRJ
09-27-88	133	ORDER (2509): Judgment will be awarded in favor of the intervenor, the National Labor Relations Board, and against pltf's. counsel, Mr. Richard Engram, Jr., in the sum of \$2,890.38. All matters in this action having been disposed of, it is Ordered Retired from this Court's Docket. (cc: Counsel)	GAN
09-27-88	134	JUDGMENT ORDER (2509): Pltf's. motion to stay proceedings, denied; this Court's Order entered 12-11-85 granting leave to the National Labor Relations Board to intervene in this action, Affirmed; pltf's. counsel, Mr. Richard Engram, Jr., is Adjudged in contempt of this Court's Orders compelling him to answer interrogatories herein; pltf's. counsel, Richard Engram, Jr. shall pay to the national Labor Relations Board, atty's. fees and costs in the sum of \$2,890.38, and judgment is hereby entered in favor of the National Labor Relations Board and against Mr. Engram for that sum; motion of pltf. to amend the Amended Complaint is granted without leave to amend; motions of defts. to dismiss Amended Complaint for lack of subject matter jurisdiction is granted; this action retired from the Court's docket. (cc: counsel)	GAN
09-27-88	*	JS-6: CASE CLOSED.	GAN
10-07-88	135	MOTION of Pltf to Alter or Amend Judgment.	TRJ
10-12-88	136	RESPONSE of the US to Pltf.'s Motion to Alter or Amend Judgment.	TRJ
10-13-88	137	RESPONSE of Defts., Jim R. Milam, Carter Lee Wolford, Larry Robinette, Adrey Pacific, Tall Timber Coal Co., Rawl Sales & Processing Co., A.T. Massey Coal Co., Inc., St. Joe's Minerals Corp., Fluor Corp. & Scallop Corp. to Pltf.'s Motion to Alter or Amend Judgment.	TRJ
10-28-88	138	ORDER (2509): Motion of pltf to alter or amend judgment denied and the Judgment entered 09-27-88 shall remain the judgment of this court. (cc: pltf, counsel)	DCM
11-04-88	139	MOTION of Pltf. Requesting Corrective Order or Acknowledgment of Rule 59(e) Motions.	TRJ
11-09-88	140	PRAECIPE of Intervenor, NLRB, for Abstract of Judgment for Attorney Fees & Costs Awarded by Order 09-27-88 Against Pltf.'s Counsel, Filed & Issued. (original abstract mailed to Gary L. Call, AUSA; copy in file)	TRJ
11-10-88	141	RESPONSE of Defts, Milam, Wolford, Robinette, Adery Pacific, Tall Timber Coal, Rawl Sales, A. T. Massey, St. Joe's Minerals, Fluor and Scallop Corp. to Pltf's motion requesting corrective order or acknowledgment of Rule 59(e) Motions.	DCM
11-10-88	142	ORDER (2509): Order of 10-28-88 denying pltf's motion to alter or amend judgment is affirmed. (cc: counsel, Pltf)	DCM

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LORETTA HOWARD, Administratrix of the Estate of Lorenzo Howard, deceased		JIM R. MILAM, ET AL.	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
11-25-88	143	NOTICE OF APPEAL/STAY of Pltf. to USCA, Fourth Circuit, from rulings of the USDC of 07-08-88, 07-27-88, 09-27-88, 10-28-88 & 11-10-88 and to any adverse ruling not specifically set forth herein but of record & further requesting a stay of execution of the judgment rulings. (cc: counsel; Court Reporter; USCA, Fourth Circuit)	TLD
12-05-88	144	PRAECIPE of U.S. for issuance of Abstract of Judgment, filed & issued.	GAN
12-09-88	145	DOCKETING STATEMENT, TRANSCRIPT ORDER FORM & ATTACHED EXHIBITS of Pltf. END VOLUME III, RECORD ON APPEAL.	TLD
02-15-89	*	PREPARING, CERTIFYING AND TRANSMITTING RECORD ON APPEAL TO THE USCA, FOURTH CIRCUIT, RICHMOND, VIRGINIA. <u>CIRCUIT COURT NO. 88-2966.</u> VOLUME I: PLEADINGS, NOS. 1 - 50 VOLUME II: PLEADINGS, NOS. 51 - 104 VOLUME III: PLEADINGS, NOS. 110 - 145, EXCEPT NO. 116. VOLUME IV: TRANSCRIPT, NO. 105 VOLUME V: TRANSCRIPT, NO. 106 VOLUME VI: TRANSCRIPT, NO. 107 VOLUME VII: TRANSCRIPT, NO. 108 VOLUME VIII: TRANSCRIPT, NO. 109 VOLUME IX: TRANSCRIPT, NO. 116. VOLUME X: EXHIBITS.	TLD
04-25-89	146	MOTION of defts., Jim Milam and Carter Lee Wolford that Affidavits of Jim Milam and Carter Lee Wolford, attached to Brief of defts. in Support of Motions, filed 01-25-85, be made a part of the record.	LLC
04-26-89	147	ORDER (2509): Affidavits of Jim R. Milam and Carter Lee Wolford be forwarded to Fourth Circuit of Appeals to be included with the record on appeal as a supplement (cc: counsel, Fourth Circuit Court of Appeals)	DCM
04-28-89	*	SUPPLEMENT NO. 1, VOLUME 11, Forwarded to USCA, Fourth Circuit.	DCM
05-14-90	148	OPINION, USCA FOURTH CIRCUIT, NO. 88-2966: For the reasons stated, the judgment of the District Court is AFFIRMED. (Argued 02-08-90; Decided 05-10-90)	GAN
06-19-90	149	JUDGMENT, USCA FOURTH CIRCUIT, NO. 88-2966: The Judgment of the District Court appealed from, is hereby Affirmed. (cc: counsel) EOD 06-20-90	GAN
03-22-94	150	APPLICATION of USA for issuance of Abstract of Judgment, filed and issued.	DCM